FILED
IN OPEN COURT
MAY 25 2016
CLERK, U.S. DISTRICT COURT
ALEXANDRIA, VIRGINIA

IN THE UNITED STATES DISTRICT COURT FOR THE

EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA	)	
	)	CRIMINAL NO. 1:16CR124
v.	)	
	)	Counts 1-5: 18 U.S.C. § 793(e)
MOHAN L. NIRALA,	)	(Willful Retention of National Defense
	)	Information)
	)	
	)	Counts 6-7: 18 U.S.C. § 1001
	)	(Making a False Statement)

INDICTMENT

May 2016 TERM - at Alexandria, Virginia

General Allegations

At all times relevant to this Indictment:

1. The United States National Geospatial-Intelligence Agency (NGA), headquartered in Springfield, Virginia, within the Eastern District of Virginia, is the nation's primary source of geospatial intelligence, or GEOINT, for the Department of Defense and the United States Intelligence Community. GEOINT is the exploitation and analysis of imagery and geospatial information that describes, assesses and visually depicts physical features and geographically referenced activities on Earth. As a Department of Defense combat support agency and a member of the Intelligence Community, NGA provides GEOINT in support of United States national security and defense, as well as disaster relief.

2. Pursuant to Executive Order 12958, as amended by Executive Order 13292, national security information is classified as "Top Secret," "Secret," or "Confidential." The designation "Top Secret" applies to information that, if disclosed without proper authorization, reasonably

could be expected to cause exceptionally grave damage to the national security. The designation "Secret" applies to information that, if disclosed without proper authorization, reasonably could be expected to cause serious damage to national security. The designation "Confidential" applies to information that, if disclosed without proper authorization, reasonably could be expected to cause damage to national security. Classified information may be marked as "Not Releasable to Foreign Nationals/Governments/US Citizens," abbreviated "NOFORN," to indicate information that may not be released in any form to foreign governments, foreign nationals, foreign organizations, or non-U.S. citizens without permission of the originator.

3. Classified information is marked to identify the level at which it is classified. Classified information, of any designation, can only be shared with persons determined by an appropriate United States government official to be eligible for access to classified information, who has signed an approved non-disclosure agreement, and who possesses a need to know that information. Similarly, classified information may only be stored and handled inside approved secure locations designed at considerable expense to protect the information at the level at which it is marked.

4. The defendant, Mohan L. Nirala, was a full-time government employee and imagery scientist at the NGA. Nirala's employment position was as a "Geonet Analyst." Nirala was employed in this capacity in the Eastern District of Virginia from 2009 until he was terminated in 2015.

5. As a condition of his employment at NGA, Nirala applied for and was granted a Top Secret clearance. As a condition of this security clearance, Nirala signed a non-disclosure agreement in which he agreed not to remove and retain classified information and not to disclose

classified information to persons not authorized to receive it. He confirmed in writing that "the unauthorized disclosure, unauthorized retention, or negligent handling of classified information by me could cause damage or irreparable injury to the United States . . . ." He further confirmed that he had "no right, interest, title or claim whatsoever to such information." Nirala signed this agreement on March 2, 2009. NIRALA's security clearances were suspended on January 2, 2014. They were never reinstated.

6. On January 10, 2014, a federal search warrant was executed at Nirala's residence. The search recovered twenty classified documents that had been removed from NGA, five of which contained classification markings. An Original Classification Authority (OCA) review by NGA determined the documents ranged in classification from Secret to Top Secret. The documents were dated from November 8, 2011 through July 18, 2013. One document, provisionally classified "pending final classification review," bore evidence of an attempted obliteration by hand to obscure the classification markings. Upon review, the document was determined to include classified information, and thus the removal of the classification markings was done without proper authority. The defendant's residence is not, nor has it ever been, an approved location for storage of classified documents.

COUNT 1

(Willful Retention of National Defense Information)

THE GRAND JURY CHARGES THAT:

1. The Grand Jury realleges and incorporates by reference the GENERAL ALLEGATIONS of this Indictment.

2. From on or about February 2009, and continuing thereafter through on or about January 10, 2014, within the Eastern District of Virginia and elsewhere, the defendant, MOHAN L. NIRALA, having unauthorized possession of a document relating to the national defense, namely, a two page letter addressed to the Director of NGA, which was paragraph-marked Top Secret, did willfully retain the document and fail to deliver it to the officer and employee of the United States entitled to receive it.

(In violation of Title 18, United States Code, Section 793(e).)

COUNT 2

(Willful Retention of National Defense Information)

THE GRAND JURY FURTHER CHARGES THAT:

1. The Grand Jury realleges and incorporates by reference the GENERAL ALLEGATIONS of this Indictment.

2. From on or about February 2009, and continuing thereafter through on or about January 10, 2014, within the Eastern District of Virginia and elsewhere, the defendant, MOHAN L. NIRALA, having unauthorized possession of a document relating to the national defense, namely, a four page document marked Top Secret and Secret, bearing evidence of obliterations created by hand over portions of the marked document, did willfully retain the document and fail to deliver it to the officer and employee of the United States entitled to receive it.

(In violation of Title 18, United States Code, Section 793(e).)

COUNT 3

(Willful Retention of National Defense Information)

THE GRAND JURY FURTHER CHARGES THAT:

1. The Grand Jury realleges and incorporates by reference the GENERAL ALLEGATIONS of this Indictment.

2. From on or about February 2009, and continuing thereafter through on or about March 8, 2016, within the Eastern District of Virginia and elsewhere, the defendant, MOHAN L. NIRALA, having unauthorized possession of a document relating to the national defense, namely, a forty-seven page classified document containing emails, exhibits and PowerPoint slides, each individually marked as being classified, did willfully retain the document and fail to deliver it to the officer and employee of the United States entitled to receive it.

(In violation of Title 18, United States Code, Section 793(e).)

COUNT 4

(Willful Retention of National Defense Information)

THE GRAND JURY FURTHER CHARGES THAT:

1. The Grand Jury realleges and incorporates by reference the GENERAL ALLEGATIONS of this Indictment.

2. From on or about February 2009, and continuing thereafter through on or about March 8, 2016, within the Eastern District of Virginia and elsewhere, the defendant, MOHAN L. NIRALA, having unauthorized possession of a document relating to the national defense, namely, a seventy-nine page document marked as classified Top Secret on each page, authored by the defendant and bearing the date September 26, 2013, did willfully retain the document and fail to deliver it to the officer and employee of the United States entitled to receive it.

(In violation of Title 18, United States Code, Section 793(e).)

COUNT 5

(Willful Retention of National Defense Information)

THE GRAND JURY FURTHER CHARGES THAT:

1. The Grand Jury realleges and incorporates by reference the GENERAL ALLEGATIONS of this Indictment.

2. From on or about February 2009, and continuing thereafter through on or about March 8, 2016, within the Eastern District of Virginia and elsewhere, the defendant, MOHAN L. NIRALA, having unauthorized possession of a document relating to the national defense, namely, a one hundred and twenty-six page classified document that consisted of a collection of emails marked as being classified Top Secret, did willfully retain the document and fail to deliver it to the officer and employee of the United States entitled to receive it.

(In violation of Title 18, United States Code, Section 793(e).)

COUNT 6

(False Statement)

THE GRAND JURY FURTHER CHARGES THAT:

1. The Grand Jury realleges and incorporates by reference the GENERAL ALLEGATIONS of this Indictment.

2. On or about January 10, 2014, within the Eastern District of Virginia and elsewhere, the defendant, MOHAN L. NIRALA, in a matter within the jurisdiction of the Federal Bureau of Investigation, United States Department of Justice, did knowingly and willfully make a materially false, fictitious, and fraudulent statement and representation, that is, falsely stating to Special Agents of the Federal Bureau of Investigation that the classified technical data contained in his e-mail sent from his unclassified government e-mail account, on June 14, 2013, at 8:11 a.m., to an external unclassified e-mail account were "from his head" and "there is no reason the numbers would be on a Secret or Top Secret system," when in truth and in fact, as NIRALA then and there well knew he had taken the numbers from a Microsoft Excel spreadsheet containing the exact technical data from an email on his classified government e-mail account dated on or about March 1, 2013, at 12:24 p.m., numbers that are national defense information classified at the SECRET level.

(In violation of Title 18, United States Code, Section 1001.)

COUNT 7

(False Statement)

THE GRAND JURY FURTHER CHARGES THAT:

1. The Grand Jury realleges and incorporates by reference the GENERAL ALLEGATIONS of this Indictment.

2. On or about January 10, 2014, within the Eastern District of Virginia and elsewhere, the defendant, MOHAN L. NIRALA, in a matter within the jurisdiction of the Federal Bureau of Investigation, United States Department of Justice, did knowingly and willfully make a materially false, fictitious, and fraudulent statement and representation, that is, falsely stating to Special Agents of the Federal Bureau of Investigation that he did not bring any classified documents home, when in truth and in fact, as NIRALA then and there well knew he had removed documents classified by the United States government from his authorized place of work and stored them at unauthorized locations inside his home and elsewhere.

(In violation of Title 18, United States Code, Section 1001.)

A TRUE BILL:

Pursuant to the E-Government Act, the original of this page has been filed under seal in the Clerk's Office.

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FOREPERSON OF THE GRAND JURY

DANA J. BOENTE
UNITED STATES ATTORNEY

By: ______________________________
Ronald L. Walutes, Jr.
Assistant United States Attorney